



LOUISIANA DEPARTMENT OF INSURANCE

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LOUISIANA
Directive Number 180
April 13, 2004

LSA-R.S. 22: 613
LSA-R.S. 22: 620-621
LSA-R.S. 22:1211 et seq.
LSA-R.S. 22:653
Regulation 78

**NOTICE TO ALL LIFE INSURERS
AUTHORIZED TO DO BUSINESS IN LOUISIANA**

**RE: Policy Forms and Marketing Practices
Insurable Interest**

It has come to the attention of the Department that life insurers may be marketing insurance policies in a manner that is not authorized under the law of Louisiana. More particularly, that corporations are taking out life insurance on the lives of its employees for the benefit of the corporation (sometimes referred to in the popular press as "janitor policies".)

Please take note that pursuant to LSA-R.S. 22:613¹ and the controlling jurisprudence, no person may procure an insurance policy upon the life of another in the absence of an insurable interest. Neither the law in its present configuration nor the jurisprudence of this state recognizes an insurable interest on the part of an employer in the lives of its employees, with certain very limited exceptions, not at issue here.

LSA-R.S. 22:3 prohibits the transaction of business in a manner that is not in compliance with the provisions of the Insurance Code. Further, under LSA-R.S. 22:1214(12) violation of a prohibitory law is an unfair trade practice.

The approval of a form filing, whether the intended marketing practices were fully and unequivocally disclosed, or not, does not negate the requirement that insurers transact business in compliance with the provisions of the Insurance Code. Further, the Commissioner is mandated by LSA-R.S. 22:621 to withdraw approval of any policy previously approved "if it is in any respect in violation of or does not fully comply with law."²

¹ LSA-R.S. 22:613A provides in pertinent part as follows: "But no person shall procure or cause to be procured any insurance contract upon the life or body of another individual unless the benefits under such contract are payable to the individual insured or his personal representatives, or to a person having, at the time when such contract was made, an insurable interest in the individual insured."

² In addition, pursuant to LSA-R.S. 22:620B, the Commissioner may withdraw approval of any form filing for "just cause".

All authorized life insurers are hereby directed to review their marketing practices to make certain they are being conducted in accordance with the law and public policy of this state.

All authorized life insurers are hereby directed to review their policy forms to determine if any forms should be revised and re-filed with the LDI, in accordance with Regulation 78 §§ 10109A-10109K.³ (The Regulation can be viewed at www.ldi.state.la.us.) After conducting the review of its marketing practices and policy forms, all authorized life insurers are hereby ordered to submit a report to the Commissioner, not more than forty-five (45) days after the date of this Directive, advising the Commissioner of the results of the review process.

Further, if an insurer is marketing policies in a manner that is not in compliance with the laws of this State, such insurer is hereby directed to submit a proposed timetable with its report for terminating such practices. Any such timetable should not exceed sixty (60) days. Failure to do so could result in the imposition of fines provided for in LSA-R.S. 22:1217 or such other disciplinary action as may be warranted and authorized by law.

LSA-R.S. 22:653 mandates that if a filing is not in compliance with law, it is to be construed and applied as it would if it had been fully in compliance. If a policy names as a beneficiary a person who does not have an insurable interest under the law of this state in the life of the person insured, then, as required by §613A, the benefits are payable to the person upon whose life the policy was procured.

Inquiries regarding this Directive should be made to Barry White, Director of the Life Division, Office of Licensing and Compliance, LDI, by e-mail at bwhite@ldi.state.la.us or by telephone at 225-342-0826 or at 225-342-1226.

All authorized life insurers are hereby directed to conduct themselves accordingly.



J. ROBERT WOOLEY
COMMISSIONER OF INSURANCE

³ Please be advised that the Commissioner has conducted an internal review of form filings and for those filings that were found not to be in compliance with the law, notice of withdrawal of approval will be issued to individual insurers, in accordance with law.

**ADDENDUM
TO
DIRECTIVE 180**

May 28, 2004

TO: ALL LIFE INSURERS AUTHORIZED TO DO BUSINESS IN LOUISIANA

**RE: Policy Forms and Marketing Practices
Insurable Interest
Clarification of Directive 180**

It has come to the attention of the Department that there is some misunderstanding regarding the scope and purpose of Directive 180.

The Directive was issued because the Department was concerned that insurers might be insuring Louisiana residents under a type of life insurance product popularly referred to as a “janitor policy” and/or “peasant policy.” The Directive is not aimed at the traditional uses of life insurance in the business setting, such as, but not limited to:

- “Key man” insurance;
- Insurance to fund buy-sell agreements or deferred compensation arrangements for executives;
- Insurance to fund employee-welfare plans.

The Directive also requires insurers to review their marketing practice and policy forms and to file a report with the Department on its findings. This reporting requirement is limited to only those materials and forms that are used to market “janitor policies.” If you are not marketing such policies, the report should so state.

For additional information about this issue, please refer to HB 1692 of the 2004 Regular Session of the Louisiana Legislature.

Regarding the reporting provisions in the Directive, Regulation 78 provides that an extension of time may be granted for good cause. Such requests should be directed to Beth O’Quin or Barry White by e-mail at: boquin@ldi.state.la.us or bwhite@ldi.state.la.us.

J. ROBERT WOOLEY
COMMISSIONER OF INSURANCE